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DOCKETED COMPLAINT NO. 10-233

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because the work product under review did not comport with USPAP. Respondent agrees and acknowledges that he will not be appealing the denial of his application for certification.

6. On or about March 25th, 2010, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

7. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Springs Hollow property:

- a) Respondent failed to comply with the record-keeping provisions of the Ethics Rule because his work file lacked the documentation necessary to support his analyses, opinions and conclusions. He also fabricated documentation in his work file after receiving notice of the complaint and misrepresented to the Board's investigator that this research and analysis concerning the cost approach had been conducted contemporaneous with the appraisal assignment;
- b) Respondent failed to perform the Scope of Work necessary to develop credible assignment results;
- c) Respondent failed to identify and report the site and improvement(s) descriptions adequately and failed to consider and report any anticipated public and private improvements located on or off the site;
- d) Respondent failed to provide support for his conclusions concerning the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- e) Respondent failed to provide a summary of his basis and underlying rationale for his determination of the property's highest and best use;
- f) Respondent failed to use an appropriate method or technique to develop an opinion of site value;
- g) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements and accrued depreciations, and failed to employ recognized methods and techniques in his cost approach, including misrepresenting after the fact to the investigator that he had conducted analysis and research of the cost of improvements, when he had not done so;

- h) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- i) Respondent failed to analyze all sales of the subject within three years prior to the effective date of his appraisal;
- j) Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and,
- k) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

8. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the United Kingdom property:

- a) Respondent failed to comply with the record-keeping provisions of the Ethics Rule because his work file lacked the documentation necessary to support his analyses, opinions and conclusions;
- b) Respondent failed to identify and report the site description adequately;
- c) Respondent failed to provide support for his conclusions concerning the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- d) Respondent failed to provide a summary of his basis and underlying rationale for his determination of the property's highest and best use;
- e) Respondent failed to use an appropriate method or technique to develop an opinion of site value;
- f) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements and accrued depreciations, and failed to employ recognized methods and techniques in his cost approach;
- g) Respondent failed to provide a summary of his basis and underlying rationale for his exclusion of the income approach; and,
- h) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

9. Respondent made material misrepresentations and omitted material facts in his appraisal reports as detailed above. Respondent also misrepresented to the Board's investigator the contents of his work file by fabricating certain documentation after receiving notice of the complaint and by misrepresenting to the investigator what

research and analysis he had truly conducted for his cost approach on the Springs Hollow property.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions), USPAP Scope of Work Rule; USPAP Standards: 1-2(h) & 2-2(b)(vii); 1-2(e)(i) & 2-2(b)(iii); 1-4(f) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts from his appraisal report.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

1) Have his license suspended for twelve months with the suspension fully probated under the following conditions:

(a) During the probated, twelve month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of this period of probation within the twenty days of notice of any such request;

(b) Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order

2) Attend and complete a minimum, 15 classroom-hour course in USPAP;

3) Attend and complete a minimum, 15 classroom-hour course in Cost Approach;

4) Attend and complete a minimum, 7 classroom-hour course in Residential Report Writing;

- (i) No examination shall be required for this course;
- 5) Pay to the Board an administrative penalty of \$500.00; and;
- 6) Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be timely completed in accordance with the provisions of this Agreed Final Order.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the administrative penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.


Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

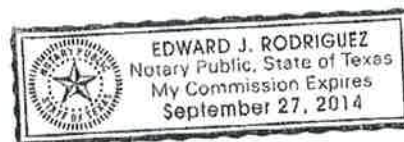
Signed this 12th day of October, 2010.


CHRISTOPHER CURTIS MARTIN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 12th day of October, 2010, by CHRISTOPHER CURTIS MARTIN, to certify which, witness my hand and official seal.


Notary Public Signature

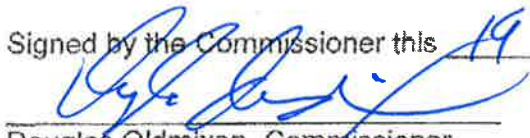
EDWARD RODRIGUEZ
Notary Public's Printed Name




Signed by the Standards and Enforcement Services Division this 17TH day of NOVEMBER, 2010.


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 19 day of November, 2010.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 19th day of November, 2010.


James B. Ratliff, Chairperson
Texas Appraiser Licensing and Certification Board